

## Notice of Public Hearing

LSA Document #12-381

## Notice of Public Hearing

Under [IC 4-22-2-24](#), notice is hereby given that on October 2, 2012, at 6:30 p.m., at the Ferdinand Branch Library, 112 East 16th Street, Ferdinand, Indiana, the Natural Resources Commission will hold a public hearing on a proposed rule to add [312 IAC 9-1-9.7](#) to define the term "inland water", add [312 IAC 9-1-13.5](#) to define the term "seine", amend [312 IAC 9-6-2](#) to clarify the measurement of paddlefish, amend [312 IAC 9-7-17](#) governing fishing guide licenses to change the title of the license to a fishing guide license, amend [312 IAC 9-7-19](#) to specify that a roe harvester's license is required to take paddlefish from public waters, amend [312 IAC 9-8-1](#) governing commercial fishing by adding general requirements and definitions of terms used throughout [312 IAC 9-8](#), amend [312 IAC 9-8-2](#) governing commercial fishing except on the Ohio River to clarify the bodies of water where the license is valid, specify that a roe harvester's license is required to take shovelnose sturgeon, and allow a license holder to submit an inactive license form, amend [312 IAC 9-8-4](#) governing commercial fishing on the Wabash River boundary waters to change the length of a seine and other technical changes, amend [312 IAC 9-8-5](#) governing commercial fishing on inland water by making technical changes, amend [312 IAC 9-8-6](#) governing commercial fishing on the Ohio River to clarify that shovelnose sturgeon and paddlefish can be taken only with a roe harvester's license, prohibit the use of gear within 50 yards of a bay or inlet, clarify tagging requirements for seines and nets, and allow a license holder to submit an inactive license form, add [312 IAC 9-8-7](#) concerning a roe harvester's license for the harvest, possession, or sale of roe, add [312 IAC 9-8-8](#) concerning a roe buyer's license for the purchasing and processing of roe.

[IC 4-22-2-24\(d\)\(3\)](#) Justification Statement: The Department of Natural Resources (DNR) is proposing amendments to the rules that govern fishing guide licenses, commercial fishing licenses, and the roe harvesters' and roe dealers' licenses.

The amendments to [312 IAC 9-7-17](#) change "charter boat operator license" to "fishing guide license" to comply with [IC 14-22-15](#). The reporting and other requirements remain the same, but this license is now required by statute for individuals who take others sport fishing for hire on public waters with or without a boat. This license was formerly called the charter boat operator's license and was required only when a boat was used. Those individuals who do not use a boat will now have to obtain this license to take an individual sport fishing for hire on public waters, but there are no new requirements for those who use a boat and were licensed in the past.

Within the amendments proposed to [312 IAC 9-8-1](#), the requirements in subsection (e) specify that helpers must be in the same boat as the license holder; if he or she wants to take fish from a different boat, he or she will need to have his or her own license. Most helpers already stay with license holders in the same boat, or license holders simply help each other. This is likely to increase the sale of commercial fishing licenses by only \$350 (two additional Ohio River commercial fishing licenses at a cost of \$125 each and 10 additional sets of net tags at a cost of \$10 for each block of 10). The requirements in subsection (c) reiterate that the current requirements in [312 IAC 9-6-11](#) for shipping fish must be obeyed. The rule language in subsection (d) specifies that a person whose license has been suspended or revoked cannot legally do any commercial fishing (the result of a judge's order), and the addition of the language in subsection (f) specifies that helpers also cannot help commercial fishermen or roe harvesters if their fishing or commercial fishing license has been suspended or revoked during the term of the suspension or revocation. The other amendment in this subsection does not have any fiscal impacts because a person whose license has been suspended or revoked cannot legally do any commercial fishing, and it is not a result of this rule, but a judge's order. The language in subsection (g) is needed to ensure the survival of these fish if they are checked for eggs and not retained for sale by the roe harvester. This provision is already required in [312 IAC 9-8-6\(f\)](#) for paddlefish, but adding this language in this rule will make it a requirement for paddlefish, shovelnose sturgeon, and bowfin.

The amendment to [312 IAC 9-8-2](#) governing commercial fishing except on the Ohio River changes the terminology for the locations for commercial fishing on inland water using the new definition in [IC 14-8-2-131.7](#). Additional changes specify that shovelnose sturgeon can only be taken with a roe harvester's license as required by state law in [IC 14-22-13-2.5](#), and allow license holders to submit an inactive license form if they stop commercial fishing for the year, eliminating the need for the license holder to continue to submit monthly reports. The amendment allowing a commercial fishing license holder to submit an inactive license form will reduce time for license holders and DNR staff but not reduce any costs for the DNR.

The amendments to [312 IAC 9-8-4](#) are needed because commercial license holders are currently only required to remove their nets and other gear from the water, and a net left along the shore can also kill birds and other wildlife. These changes are primarily technical in nature, with the exception of the license for seines in [312 IAC 9-8-4](#) that is being changed to 100 yards in length to match the language in [IC 14-22-13-1](#), but this change is not likely to result in the sale of additional inland commercial fishing licenses.

The amendment to [312 IAC 9-8-5](#) makes technical corrections with the use of the new term "inland water" and require the gear to be removed from the shoreline or the waters fished upon the completion of fishing in subsection (d) (each item of gear is already required to be removed from the waters fished immediately upon the completion of fishing). This change is needed because commercial license holders are currently only required to remove their nets and other gear from the water, and a net left along the shore can also kill birds and other wildlife.

The amendments to [312 IAC 9-8-6](#) governing commercial fishing on the Ohio River specify that shovelnose sturgeon and paddlefish can only be taken with a roe harvester's license (per [IC 14-22-13-2.5](#)). The change to prohibit commercial gear within 50 yards of the mouth of a bay or inlet is needed because commercial fishing nets used at the mouth of a bay or inlet could trap many more fish in a short period of time. Kentucky also prohibits commercial gear from being used within 50 yards of the mouth of a stream, bay, or inlet on the Ohio River, and this language would also provide consistency. Allowing an inactive license form to be submitted eliminates the need for the license holder to continue to submit monthly reports once he or she is done fishing for that calendar year. The rule language that will prohibit the use of commercial fishing nets on or within 50 yards of a bay or inlet of the Ohio River will not affect the sale of commercial fishing licenses. None of these changes are likely to impact the sale of Ohio River commercial fishing licenses.

The new rules for the roe harvester's license in [312 IAC 9-8-7](#) and roe dealer's license in [312 IAC 9-8-8](#) are needed to comply with state statute in [IC 14-22-13-2.5](#). As a result of the creation of the roe harvesters' and roe dealers' licenses in state law ([IC 14-22-13-2.5](#)) last year, corresponding rules are needed to administer these licenses and specify requirements. License requirements were established this year in a temporary (emergency) rule. A commercial fishing license is also required by state law in [IC 14-22-13-1](#) and [IC 12-33-13-2](#). The state law in [IC 14-22-13-2.5\(d\)](#) requires the DNR to limit the number of licenses that are available to help prevent overharvest of the resource. The DNR has proposed 15 for the Ohio River and 15 for inland water. These numbers will allow everyone that is currently harvesting roe-bearing species to continue to operate. Priorities must be established in rule in order to have a system for determining who is issued a license first. The requirements in subsection (f) are needed to track the number of roe-bearing fish that are harvested as well as the date, length of the fish, and location where harvested. The inactive license form will allow someone who no longer wants to fish for roe-bearing species the remainder of the year to submit this form to eliminate the need for monthly reporting requirements for the remainder of that calendar year. The requirements of allowing fish to be sold only to Indiana-licensed roe dealers complies with state statute in [IC 14-22-13-2.5\(d\)](#), and the roe must be left intact and inside the body of the fish to comply with [IC 14-22-13-2.5\(d\)](#). Subsection (g) allows a roe harvester to sell the meat of a roe-bearing species of fish that does not contain roe to any other person. This will help prevent these fish from being wasted. The requirements in subsection (i) are needed to help a conservation officer confirm compliance with the requirements in [312 IAC 9](#). The requirements in this rule are not likely to impact the number of roe harvester licenses sold, since the roe that is sold by roe harvesters is worth thousands of dollars.

The rule language in [312 IAC 9-8-8\(a\)](#) is needed to comply with state law in [IC 14-22-13-2.5](#). Language in subsection (d) is needed to track the purchase and sale of screened eggs and caviar to ensure compliance with state and federal laws. Monthly reports and inspections by conservation officer must be allowed to ensure compliance with the requirements in this rule.

The DNR has the statutory authority to allow the taking and possession of wild animals and to establish the bag limit, methods, locations, and means of taking wild animals in [IC 14-22-2-6](#). The DNR is also required to develop rules that are based upon "(A) The welfare of the wild animal, (B) The relationship of the wild animal to other animals, and (C) The welfare of the people in [IC 14-22-2-6](#)." "Wild animal" is defined in [IC 14-8-2-318](#) and includes fish. The DNR has the statutory authority to adopt rules governing the fishing guide license under [IC 14-22-15-4](#) and establish the roe harvester and roe dealer license under [IC 14-22-13-2.5](#). The DNR is also required in [IC 14-22-2-3](#) to "provide for the protection, reproduction, care, management, survival, and regulation of wild animal populations regardless of whether the wild animals are present on public or private property in Indiana. . .". The Natural Resources Commission has the statutory authority to adopt rules under [IC 14-10-2-4](#).

The number of individuals who are directly affected by these changes is expected to be approximately 320 inland commercial fishing license holders, 19 Ohio River commercial fishing license holders, 30 roe harvesters, and five roe dealers.

Sources of information for determining costs and benefits were obtained from staff of the DNR Division of Fish and Wildlife.

Copies of these rules are now on file at the Indiana Government Center North, 100 North Senate Avenue, Room N501 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Bryan W. Poynter  
Chairman  
Natural Resources Commission

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